

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GUARDIAN INDUSTRIES CORP.,

Plaintiff,

v.

**DELL, INC.; GATEWAY, INC.;
HEWLETT-PACKARD CO.; ACER INC.;
ACER AMERICA CORP.; AOC INTERNATIONAL;
ENVISION PERIPHERALS, INC.;
TPV TECHNOLOGY, LTD.;
TPV INTERNATIONAL (USA), INC.;
CHUNGHWA PICTURES TUBES, LTD. a/k/a
CHUNGHWA PICTURE TUBES CO.;
TATUNG CO.; TATUNG COMPANY OF AMERICA, INC.;
COMPAL ELECTRONICS, INC.; JEAN CO., LTD.;
LITE-ON TECHNOLOGY CORP.;
LITE-ON, INC. a/k/a LITEON TRADING USA, INC.;
MAG TECHNOLOGY CO., LTD.;
MAG TECHNOLOGY USA, INC.;
PROVIEW INTERNATIONAL HOLDINGS, LTD.;
PROVIEW TECHNOLOGY, INC.; and
PROVIEW ELECTRONICS CO., LTD.,**

Defendants.

**C.A. No.:
05-27-SLR**

**Jury Trial
Demanded**

**GUARDIAN'S RESPONSE TO DEFENDANTS' MOTION FOR LEAVE
TO FILE A SUR-REPLY TO GUARDIAN'S MOTION TO LIFT THE STAY**

Plaintiff Guardian respectfully requests that the Court deny Defendants' motion to file a sur-reply to Guardian's motion to lift the stay, and grant Guardian's motion to lift the stay. Contrary to Defendants' assertion, Guardian did not advance any "new argument" in its reply brief that would warrant a sur-reply from Defendants.

Guardian's position has always been that the presence of additional, unlicensed suppliers of LCD modules necessitates discovery from all Defendants, particularly since

the OEM and reseller defendants are the direct infringers. *See* D.I. 162, Guardian's Consolidated Opposition to the Defendants' Motions to Stay, filed July 22, 2005. The OEM and reseller defendants argued that a two-stage discovery process, where discovery from the LCD module manufacturers would take place before discovery of the OEMs and resellers, would be the most efficient. The Court agreed with Defendants' proposed discovery staging, in part to allow time to see if Guardian and CPT would reach a settlement. The Court thus allowed Guardian only limited discovery from the OEMs and resellers regarding the flow of monitors containing CPT modules into the United States, then stayed the case against the OEM and reseller defendants pending Guardian's mediation with CPT. With an agreement in principle reached between Guardian and CPT (the last defendant module manufacturer), "stage 1" discovery of CPT is no longer needed, and it is time to move to "stage 2," discovery from the OEM and reseller defendants.

The arguments raised in Guardian's reply brief are the same as those raised by it during the initial stay briefing, modified only in light of the two-stage discovery process put in place at Defendants' request. Thus, there is no basis for Defendants' sur-reply, and Guardian respectfully requests that the Court deny Defendants' Motion to File a Sur-Reply and grant Guardian's Motion to Lift the Stay. The notion that the remaining defendants should be dismissed, without any opportunity for Guardian to take discovery regarding further unlicensed modules, has no basis in law.

Dated: March 10, 2006

/s/ Richard K. Herrmann

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2006, I electronically filed the foregoing document, **GUARDIAN'S RESPONSE TO DEFENDANTS' MOTION FOR LEAVE TO FILE A SUR-REPLY TO GUARDIAN'S MOTION TO LIFT THE STAY**, with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

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